Scott. II-27—40,004—6-11-28.

Law (8C) (1929) Department.

Ms. SERIES.

G.O. No. 3942

DATED 11-10-28

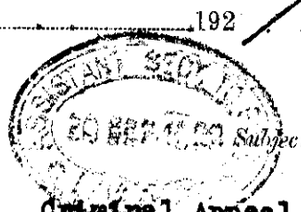
[Despatch Abstract.]

C.F.60.

Law (General) DEPARTMENT.

Cl 4450 B

Received ..... 192 / *Registered* 30 9 1929



Subject.

Criminal Appeal - against acquittal - S.C.12 of 1929 of South Kanara - report submitted.

ENCLOSURES.

No .....

.....

Spare copies .....

Ref.Cl.-~~xxx~~ 7719-29.

Station Mangalore, *Dated the* 27th September 1929

From (Name) G.W.Wells, Esquire, M.A., I.C.S.

(Designation) Dt. Magistrate of South Kanara.

To The Secretary to the Government of Madras,

Law (General) Department.,

Madras.

Sir,

I request that Government may be pleased to instruct the Public Prosecutor, Madras, to file an appeal before the High Court of Judicature, Madras, against the acquittal of Santhi Ajila and two others by the Sessions Judge of South Kanara in S.C. 12 or 1929 on his file.

Wh 6-15 cita

2. The accused in the case had been charged with the murder and abetment of murder of one Shimao Pinto on 15-11-28; accused 1 with the abetment, and the two others with the -- actual crime. The evidence in the case, against all the accused, was sufficiently strong, and the evidence of P.W.1, the approver, who had been granted a conditional pardon by me, was sufficiently corroborated. The four assessors were

all impressed with the straightforward evidence of P.W.1 and they were unanimous in their opinion that P.W.1's evidence was sufficiently corroborated, and that the accused were guilty of the offences, with which they were charged. The reasons given by the learned Sessions Judge in paragraph 9 and subsequent paragraphs of his judgment, a copy of which I enclose, for discarding the evidence of P.W.1 and for acquitting the accused do not appear to have been sufficient, and the acquittal has caused a miscarriage of justice.

3. I enclose a copy of the letter dated 17-9-29 of the District Superintendent of Police, South Kanara, which fully discusses the facts of this case. The learned Sessions Judge seems to have ignored the most salient feature of this case that the motive of the crime was the desire of the first accused, an influential Jain, to wreak his revenge on the deceased, a mere toddy shop renter, who is stated by the District Superintendent of Police to have grossly insulted the first accused. The reasons given by the Sessions Judge for disbelieving P.W.1 do not appear to be at all sufficient. The learned Judge has, in paragraphs 15 and 16 of his judgment failed to appreciate properly the evidence of P.Ws. 7 and 8 which went far to corroborate P.W.1 (please see the remarks of the District Superintendent of Police on this point) and he seems to have attached no value to the evidence relating to the recoveries made by the Police of the cudgel, lantern and knife, on information given by P.W.1 to them.

Your obedient servant,

for Dt.Magistrate.

27.9.29

41/3/10

Law Genl's Dept

G. No: 4450 B.

C. I. B

Endt. 4450 B 1 / 3.10.29

Appeal against acquittal S. C. No: 12/1929 on the file of the Sessions Judge, S. Kanara. Ref letter from the D. Coll, S. Kanara Ref. Cl. No: 7719/29 dt 27. 9. 29.

Referred to the Public Prosecutor, Madras, for opinion as to whether an appeal to the High Court against the judgment of the Sessions Judge, S. Kanara acquitting the accused in the above case is likely to be successful. He is requested to send his reply not later than the 10th October 1929.

30/9/29

Note

Mr 1-2 ante

The three months appeal time expires on 15.10.29.

6 months

30/9/29.

Rec'd by Messenger Vasu Peon

Dpch. 1 Oct 1929

To

The Public Prosecutor, Madras.

(with copy Mr 1-2 cf & Mr 3-15 cf in ori)

U.F. 30.

JUDICIAL DEPARTMENT.

Q 4617 B
8.X.29

Received ..... 192 Registered 192

Subject.

Appeal against acquittal - S.C.12/29 -
Sessions Judge, South Kanara -
Forwarding opinion.

ENCLOSURES.
No .....
.....
Spare copies .....

Opinion No. 59 of 29.

Station Madras, *Dated the* 7th October 192

From (Name) L. H. Bewes Esq.,

(Designation) Public Prosecutor, Madras.

To The Secretary to the Government of Madras,

Law (General) Department.

Sir,

With reference to Endorsement No. 4450 B-1, Law (General) dated 3rd October 1929, I have the honour to forward herewith my opinion on the matter.

2. The enclosures received with the endorsement are herewith returned.

I have the honour to be,
Sir,
Your most obedient servant,

L. H. Bewes

Public Prosecutor.

RS/7-10-29.

18

Endorsement No. 4450 B-1, Law (General) dated 3-10-1929.

OPINION

Although it may be that the motive is duly proved against accused 1 there is no other corroboration of the approver's story as against him. As regards accused 2 and 3 the learned Sessions Judge has disbelieved the evidence of P.Ws. 7 and 8 for reasons given in paragraphs 15 and 16 and I am not prepared to say that the reasons are unsound. These two witnesses are the only real corroborative witnesses for as the learned Sessions Judge points out the evidence of P.Ws 3, 9 and 10 had already been given out before the approver had made his confession. The pointing out and recovery of the various objects in my opinion is very slight, if any, corroboration.

Mr 12+13 saute

I do not think an appeal against acquittal is likely to be successful.

L. A. Davis

Madras,
7th October 1929.

Public Prosecutor.

RS/7-10-29.

Law Dept. (Genl.) I-4—100—10-11-26.

Received _____ 192 . *Registered* _____ 192

~~Criminal~~ Appeal - **Appeal against acquittal—~~Negatived~~.**

Sessions Case No. 12 of 1929 on the file of the Sessions Judge, South Kanara - Declined

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LAW (GENERAL) DEPARTMENT

READ—the following papers :—

From the District Magistrate, S. Kanara No. 7419/29 dated 27.9.1929.

Endorsement to the Public Prosecutor, Madras, No. 44508, dated 3.10.1929.

From the Public Prosecutor, Madras, No. 59/29 dated 7.10.1929.

ORDER—Mis. No. 3542, dated 11/10/1929.

The Government do not consider it advisable to appeal to the High Court against the judgment of the Sessions Judge, S. Kanara, acquitting the accused in S.C. No. 12 of 1929 on his file.

GOVERNMENT OF MADRAS 11 OCT 1928 LAW DEPARTMENT (True Extract.)

9/10/29

9/10

Note

The three months appeal time expires on 15.10.29. The Public Prosecutor considers that an appeal against acquittal is not likely to be successful.

9/10/29

9/10

9/10

Secretary to Government

To

The District Magistrate, S. Kanara

The Public Prosecutor, Madras.

C. 9809

10.10.29

3

Dpd. by Messenger

Dpd. Date

3/10/29